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STATE COMPENSATION INSURANCE FUND

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

STATE COMPENSATION INSURANCE
FUND,

Plaintiff,

vs.

METROPOLITAN WEST SECURITIES
LLC; WACHOVIA BANK, N.A.; DOES
1 through 10, inclusive; and DOES 11
through 20, inclusive,

Defendants.

CASE NO. CV 09-02959 JSW (EDL)

**STIPULATION AND ~~[PROPOSED]~~ ORDER
CONTINUING CASE DEADLINES AND
SCHEDULE ~~(NOT INCLUDING PRE-
TRIAL AND TRIAL DATES)~~**

CASE NO. CV 09-2959 JSW (EDL)

STIPULATION AND ~~[PROPOSED]~~ ORDER CONTINUING CASE DEADLINES

1 STIPULATION by and between Plaintiff State Compensation Insurance Fund (“State
 2 Fund”), on the one hand, and Wells Fargo Bank, N.A. (successor by merger to Defendant
 3 Wachovia Bank, N.A.) and Defendant Metropolitan West Securities LLC (collectively,
 4 “Defendants”), on the other hand:

5 WHEREAS, both parties have determined that they need to re-collect and produce certain
 6 electronic records, and that this process will delay completion of many depositions;

7 WHEREAS, State Fund recently determined that it needs to conduct further electronic
 8 data searches to address certain issues and complete its production, including: error in the search
 9 of one custodian’s data such that many e-mails were blank or did not have attachments; the need
 10 to search a separate data location for one custodian’s e-mails; the need to search electronic folders
 11 that were maintained by certain custodians for relevant e-mails that may not have been retrieved
 12 by prior searches; and the need to search “my documents” folders that were maintained by certain
 13 custodians for relevant documents that may not have been retrieved by prior searches;

14 WHEREAS, State Fund has commenced retrieval of the additional data, and on a “rolling”
 15 basis will remove duplication from prior searches, search and review the remaining data and
 16 produce additional documents as appropriate;

17 WHEREAS, State Fund anticipates that there will be significant duplication of prior data
 18 retrieved and searched, but cannot be certain as to the potential volume of new documents;

19 WHEREAS, State Fund is uncertain as to the time needed to complete the further search
 20 and production, but estimates it will be able to do so by September 9, 2011;

21 WHEREAS, on July 8, 2011, Defendants filed an administrative motion to continue case
 22 deadlines because of a recently-discovered malfunction in Defendants’ collection of e-mail data
 23 which would necessitate the re-collection and review of email just as numerous depositions were
 24 set to take place;

25 WHEREAS, the Court entered an order on July 13, 2011 granting in part Defendants’
 26 motion, extending discovery deadlines by approximately 30 days, and (due to the Court’s
 27 schedule) extending hearing and trial dates by approximately 60 days, such that the schedule is
 28 now as follows:

1	Fact discovery cutoff:	September 23, 2011
2	Disclosure of experts and reports:	October 7, 2011
3	Disclosure of rebuttal experts and reports:	October 28, 2011
4	Expert discovery cutoff:	November 18, 2011
5	Completion of mediation:	December 19, 2011
6	Dispositive motion hearing date:	February 10, 2012 9:00 a.m.
7	Final pretrial conference:	April 30, 2012 2:00 p.m.
8	Trial:	May 21, 2012 8:00 a.m.

9 WHEREAS, at the time that motion was filed and the order was entered, the quantity of
10 email affected by the malfunction and the volume of additional documents that would need to be
11 reviewed and produced was unknown;

12 WHEREAS, since the Court's order, Defendants have diligently engaged in re-collecting
13 and reviewing the e-mail data affected by the malfunction, to date have reviewed all e-mail for
14 the majority of e-mail custodians, and have so far produced approximately 40,000 pages (8,000
15 documents) of newly-discovered materials;

16 WHEREAS, Defendants continue to re-collect, process, and review e-mail data for several
17 remaining custodians, are endeavoring to complete this process as quickly as possible, and
18 anticipate that there are likely to be substantial additional volumes of documents to be reviewed
19 and produced;

20 WHEREAS, the parties will require time to review the re-collection productions, are still
21 assessing the sufficiency of each other's re-collection efforts, and expect to meet and confer
22 further on these issues;

23 WHEREAS, since the Court's July 13, 2011 order, the parties have taken four previously-
24 scheduled depositions, and continue to work together to identify any deponents whose depositions
25 may safely be scheduled before their re-collections and productions are completed;

26 WHEREAS, a substantial number of depositions (the parties presently anticipate 17) of
27 witnesses likely to be affected by the re-collections and productions remain to be completed
28 before the fact discovery cutoff;

1 WHEREAS, in light of the volume of documents now known to be affected, the parties
 2 believe that the current discovery schedule provides insufficient time to complete retrieval of data
 3 and review of the documents affected by their respective re-collection projects and to proceed
 4 with the remaining depositions;

5 WHEREAS the parties believe that an additional extension of approximately 70 days for
 6 all case schedule deadlines and dates, ~~other than the final pre-trial deadlines and trial dates~~, is
 7 necessary;

8 NOW THEREFORE, IT IS HEREBY STIPULATED BY AND BETWEEN THE
 9 PARTIES HERETO AND THEIR COUNSEL OF RECORD THAT existing discovery and
 10 mediation deadlines and the dispositive motion hearing date shall be continued such that the new
 11 schedule shall be as follows:

12	Fact discovery cutoff:	December 2, 2011
13	Disclosure of experts and reports:	December 16, 2011
14	Disclosure of rebuttal experts and reports:	January 13, 2012
15	Expert discovery cutoff:	February 3, 2012
16	Completion of mediation:	February 28, 2012
17	Dispositive motion hearing date:	March 16, 2012 9:00 a.m.
18	Final pretrial conference:	April 30, 2012 2:00 p.m. May 21, 2012
19	Trial:	May 21, 2012 8:00 a.m. June 11, 2012

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21
22 Date: August 16, 2011

MUNGER, TOLLES & OLSON LLP

23
24 By: /s/ James C. Rutten

James C. Rutten

25
26 Attorneys for WELLS FARGO BANK, N.A.
 27 (successor by merger to Defendant
 28 WACHOVIA BANK, N.A.) and Defendant
 METROPOLITAN WEST SECURITIES LLC

Date: August 16, 2011

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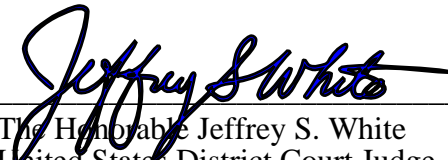
By: /s/ J. Russell Stedman
J. Russell Stedman

Attorneys for Plaintiff STATE
COMPENSATION INSURANCE FUND

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PURSUANT TO STIPULATION, IT IS SO ORDERED AS MODIFIED

DATED: August 22, 2012


The Honorable Jeffrey S. White
United States District Court Judge